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## **Chapter 5.20 MARIJUANA PRODUCTION, PROCESSING AND RETAIL SALE**

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### **5.20.010 Purpose and scope.**

(1) The purpose of this chapter is to regulate and monitor individuals or entities within the unincorporated areas of Lewis County, Washington, ~~licensed as producers, processors, and retailers of engaged in marijuana activity or related products regulated~~ under Chapter [314-55](#) WAC, ~~now or as hereafter amended or replaced.~~ Article XI, Section 11 of the Washington Constitution authorizes Lewis County to make and enforce within its limits local police, sanitary and other regulations in compliance with general laws. The failure to procure a license under Chapter [314-55](#) WAC shall not be a defense for failing to comply with the provisions of this chapter, ~~and the provisions of this chapter which~~ shall apply to any individual or entity engaged in marijuana activity regulated under Chapter [314-55](#) WAC regardless of the regularity, for- or nonprofit status, or any other circumstances of such activity. ~~producing, processing, or holding for sale marijuana or related products.~~

(2) Lewis County recognizes that the Constitution of the United States and the laws of the United States made in pursuance thereof are the supreme law of the United States and the state of Washington, as recognized by the plain reading of Article I, Section 2 of the Washington State Constitution and the decisions of the Washington Supreme Court. The purpose of this chapter is to ensure that all production, processing, and retailing of marijuana and related products within the unincorporated areas of Lewis County, Washington, comply with the supreme laws of the United States.

(3) Procurement of a license under this chapter will not waive the requirement for any other local, state, or federal permit or license as required by those entities. [Ord. 1247 §1, 2013]

### **5.20.020 Provision - License required.**

(1) It shall be unlawful for any person or entity within the unincorporated areas of Lewis County, Washington, to engage in marijuana activity regulated under Chapter [314-55](#) WAC ~~produce, process, or sell or hold out for sale marijuana or related products~~ without first having obtained a license pursuant to the provisions of this chapter, ~~provided, that persons or entities only producing or processing marijuana under the authority of Chapter [69.51A](#) RCW (Medical Cannabis) shall not be subject to the requirements of this chapter, or to do so outside the conditions of a license so issued.~~

(2) Procurement of a license or permit issued by state agencies, other counties, cities, or the federal government does not alleviate the requirement that all producers, processors, and retailers of marijuana or related products obtain a license pursuant to this chapter prior to operating within the unincorporated areas of Lewis County.

(3) The activities governed by this chapter are deemed to take place within the unincorporated areas of Lewis County, Washington, if any portion of the production, processing, or retail activities take place within the boundaries of the unincorporated areas of Lewis County, Washington; provided, that the provision of this chapter shall not apply to the transportation of marijuana or related products through Lewis County when the transportation is not related directly or indirectly to production, processing, or retail activities within the unincorporated areas of Lewis County. Production, processing, or retail activities which take place both within and without the unincorporated areas of Lewis County require a license as if all portions were to occur within the unincorporated areas of Lewis County. [Ord. 1247 §1, 2013]

#### **5.20.030 Application requirements - Approval, denial, and appeal - Expiration and renewal - Revocation - Fees.**

(1) Application Requirements. A license issued pursuant to this chapter shall be construed as a business license for ~~producing, processing, and retailing marijuana~~ activity and related products and shall only be issued following application to the director of community development. Applications for a license required by this chapter shall be submitted in such form and detail as reasonably prescribed by the director of community development. Such applications shall be signed by the applicant who shall certify that all of the information contained within and attached to the application is correct and, at a minimum, shall include: name, address, and date of birth or incorporation or origination of the applicant; hours of operation; emergency contact information for after-hours contact; payment of applicable fees; proof of state licensure under Chapter [314-55](#) WAC or application under Chapter [314-55](#) WAC; proof of registration approval from the United States Attorney General or Drug Enforcement Administration pursuant to 21 U.S.C. 823 for ~~producing, processing, or retailing the applicant's~~ marijuana activity, as evidenced by notice from the United States Attorney General or Drug Enforcement Administration in the Federal Register; proof of a criminal history check indicating that the applicant has not been convicted of any crime involving a controlled substance; and proof of compliance with Lewis County zoning and land use, waste, wastewater, public water, and building and fire regulations. Proof of compliance with Lewis County regulations shall be obtained by developing an approved operating plan demonstrating compliance.

(2) Approval and Denial. The director of community development shall review all completed and properly submitted applications to determine whether the requirements as established in subsection (1) of this section and as prescribed by the director of community development have been met by the applicant. It shall be the burden of the applicant to show by a preponderance of the evidence that the applicant has met the requirements for the issuance of the license. Applications meeting the requirements as established in subsection (1) of this section and as prescribed by the director of community development shall be approved by the director of community development within 30 days of submission of the completed application and such approval shall be evidenced by a license signed by the director of

community development and issued to the applicant by mailing the license to the applicant at the address provided in the application. Applications may be conditionally approved on satisfaction of or maintained compliance with the requirements of subsection (1). Applications not meeting the requirements as established in subsection (1) of this section and as prescribed by the director of community development shall be denied by the director of community development within 30 days of submission of the completed application and such denial shall be evidenced by a letter summarizing the deficiencies in the application and shall be signed by the director of community development and mailed to the applicant at the address provided in the application. Failure of the director of community development to take action on a completed and properly submitted application shall be deemed a denial of the application, but all fees paid by the applicant shall be returned to the applicant upon demand by the applicant to the director of community development. Denial of an application may be appealed to the hearing examiner pursuant to Chapter [2.25](#) LCC; provided, that no fee shall be charged for the appeal. Review by the hearing examiner shall be de novo.

(3) Incomplete or improperly submitted applications will not be considered by the director of community development.

(4) Expiration and Renewal. A license issued pursuant to this chapter shall be effective for one year from the date of application approval. An applicant desiring to renew a license may submit an application not earlier than 60 days prior to the expiration date of its current license. All applications for renewal shall be treated as an initial application and must meet all of the requirements of an initial application. No license shall issue under this chapter to an applicant holding another license issued pursuant to this chapter until the prior license expires or is revoked.

(5) Revocation. The director of community development may revoke a license issued under this chapter if the applicant at any time is found by a preponderance of the evidence to no longer meet the requirements established for application under subsection (1) of this section, or to be operating outside the conditions of the applicant's license. The director of community development shall revoke a license issued to an applicant under this chapter if the applicant at any time is found to have been convicted of a crime involving a controlled substance in any jurisdiction. The director of community development shall provide notice of the revocation to the applicant either by personal service or by mailing notice to the address provided to the applicant during the application process. Revocation of a license may be appealed to the hearing examiner pursuant to Chapter [2.25](#) LCC; provided, that no fee shall be charged for the appeal. Review by the hearing examiner shall be *de novo*. Upon notice to the applicant of revocation by the director of community development, the applicant shall stay all marijuana production, processing, and retailing activity immediately within 10 calendar days unless the revocation is appealed, in which case the stay shall not begin until after the hearing examiner lifts such stay pending appeal. However, when the director of community development is notified by the Department of Public Health & Social Services, based on a preponderance of the evidence, that the applicant's activity poses a significant threat to the public's health and safety, the director may, in addition to notice of revocation, provide to the applicant a cease-and-desist order requiring the applicant to immediately cease all marijuana activity, and

such cease-and-desist order shall be an additional subject in the appeal if the applicant appeals the matter.

(6) The director of community development may review a license holder's compliance with this chapter at the director's discretion. The prosecuting attorney may, but is not required to, notify the director of community development if the holder of a license under this chapter is convicted of a crime involving a controlled substance or is otherwise believed to be out of compliance with the requirements of this chapter.

(7) Fees. The fee for the application shall be \$500.00 or as set from time to time by resolution. [Ord. 1247 §1, 2013]

#### **5.20.040 Enforcement - Penalties.**

Any person or entity failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not less than \$300.00 but not exceeding \$500.00 and shall be imprisoned in the county jail for a period not less than 24 consecutive hours but not exceeding 90 days. A person or entity shall be guilty of a separate offense for each day in which a violation occurs. A person or entity can be charged as a principal if the person or entity is the principal violator or if the person or entity is liable as a principal under RCW [9A.08.020](#). In addition, a conviction under this section shall automatically revoke any license issued to the violator pursuant to this chapter and the violator shall not be eligible to apply for a license under this chapter for a period of three years from the date of conviction. Finally, a violation of any of the provisions of this chapter is a public nuisance that may be enjoined, abated, or otherwise remedied through a civil action. [Ord. 1247 §1, 2013]